

**U.S. Department of Energy**  
**Washington, D.C.**

**ORDER**

**DRAFT**  
**DOE O 533.1X**

Approved: XX-XX-06

This directive was reviewed and certified as current and necessary by Susan J. Grant, Chief Financial Officer, XX-XX-06.

**SUBJECT: COLLECTION FROM CURRENT AND FORMER EMPLOYEES FOR  
INDEBTEDNESS TO THE UNITED STATES**

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1. **OBJECTIVES.** To prescribe the policy and procedures for—
  - a. collecting debts owed by current and former Department of Energy (DOE) and National Nuclear Security Administration (NNSA) employees to the United States Government, subject to the limitations detailed in paragraph 6 below;
  - b. compromising, suspending, or terminating such debts; and
  - c. granting waiver of claims against employees resulting from erroneous payment of wages or allowances for travel, transportation and relocation expenses.
2. **CANCELLATION.** DOE 533.1, *Collection from Current and Former Employees for Indebtedness to the United States*, dated 9-26-03. Cancellation of a directive does not, by itself, modify or otherwise affect any contractual obligation to comply with such a directive. Canceled directives that are incorporated by reference in a contract remain in effect until the contract is modified to delete the reference to the requirements in the canceled directives.
3. **APPLICABILITY.**
  - a. **DOE Elements.** This Order applies to the DOE elements listed in Attachment 1 and automatically applies to elements created after it is issued.

The NNSA Administrator will assure that NNSA employees and contractors comply with their respective responsibilities under this Order.
  - b. **DOE Contractors.** This Order does not apply to site/facility management contracts.
  - c. **Exclusions.** None.
4. **REQUIREMENTS.**
  - a. It is Departmental policy to collect from current and former employees the amount of any indebtedness to the United States. In addition to the debt, DOE will assess and collect interest and penalty charges and associated

administrative costs as defined in Title 31 Code of Federal Regulations (CFR) 901.9 and 10 CFR 1015.

- b. As directed in Title 5 United States Code (U.S.C.) 5514, employees will be allowed—
- (1) a minimum of 30 days written notice informing the employee of the nature and amount of the indebtedness, DOE's intention to initiate proceedings to collect the debt through deductions from pay, and an explanation of the individual's rights;
  - (2) an opportunity to inspect and copy Government records relating to the debt;
  - (3) an opportunity to enter into a written agreement with DOE under terms agreeable to the Chief Financial Officer (CFO) or field CFO or equivalent to establish a schedule for repayment; and
  - (4) an opportunity for a hearing on the DOE determination concerning the existence or the amount of the debt, and in the case of an individual whose repayment schedule is established by other than written agreement (paragraph 4c), concerning the terms of the repayment schedule.

5. RESPONSIBILITIES.

- a. Chief Financial Officer (CFO) will develop and maintain Departmental policies and procedures and delegations of authority to field CFO or equivalents for—
- (1) collection of current and former DOE employees' indebtedness to the United States;
  - (2) compromise, suspension, or termination of collection actions involving employee debt under Federal Claims Collection Standards, 31 CFR 902 and 903; and
  - (3) waiver of erroneous payments of wages and allowances, and of travel, transportation and relocation expenses and allowances (5 U.S.C. 5584).
- b. CFO and Field CFOs or Equivalents.
- (1) Determine the existence and amount of employee debt.
  - (2) Promote voluntary repayment of employee debts, whenever possible, using demand letters that comply with requirements listed in paragraph 7.

NOTE: One demand letter should suffice. An additional demand letter is optional.

- (3) Ensure that current and former employees are provided with due process procedures when amounts owed the Federal Government will be collected using salary offset under 5 U.S.C. 5514, or other administrative offset collections in accordance with the procedures outlined in paragraphs 7 through 15 of this Order.
- (4) Forward the employee's debt file to the General Counsel or Chief Counsel for a review if it is believed that an oral hearing is required to address issues of credibility or veracity.
- (5) Arrange for the services of a hearing official when a hearing is requested.

NOTE: The chairperson of the Board of Contract Appeals will designate a hearing official unless the chairperson determines that providing a hearing official would be inconsistent with other duties as defined in the Contract Disputes Act of 1978. The chairperson may designate a member (administrative judge) of the Board or other professionally qualified person who is not subject to the supervision or control of the Secretary.

- (6) To protect the Government's interest, be mindful of the 10-year statute of limitations for commencement of administrative offset action against a debtor [31 CFR 901.3(a)(4)].
- (7) Certify debt amounts collected as set forth in paragraph 12c.
- (8) Compromise, suspend, or terminate collection action on employee debts that do not exceed \$100,000 in accordance with 31 CFR 902 and 903.
- (9) Recommend compromise, suspension, or termination of collection action on employee debts that exceed \$100,000 to the Department of Justice (DOJ), in accordance with 31 CFR 904.
- (10) Act upon employee requests for waiver for collection of claims involving erroneous payments of wages/salary; travel, transportation and relocation expenses; and other allowances in accordance with 5 U.S.C. 5584. See paragraph 14.
- (11) Seek resolution for employees disputing the amount of retroactive collection of overpayments resulting from normal processing delay.
- (12) In coordination with the General Counsel or Chief Counsel and the Inspector General (IG) as directed in DOE O 221.11, *Reporting Fraud, Waste, and Abuse to the Office of the Inspector General*, dated 9-20-05, promptly refer claims for which there is indication of fraud, presentation of a false claim, or misrepresentation on the part of the debtor to the DOJ.

See 31 CFR 900.3, “Antitrust, fraud and tax and interagency claims excluded.”

(13) Respond to IG investigation findings as described in paragraph 15c.

- c. Headquarters General Counsel and Chief Counsels in the Field will review an employee’s debt file for legal sufficiency when requested by the CFO or field CFO or equivalent in anticipation of hearing or review.
- d. Inspector General will provide a report and supporting documentation for a claim resulting from an IG investigation of an employee to the CFO or field CFO or equivalent at the time the report is provided to the appropriate management official and/or employee. (See paragraph 15.)

## 6. LIMITATIONS.

- a. Excluded Debts or Claims. The procedures contained in this Order do not apply to—
  - (1) debts or claims arising under the Internal Revenue Code (26 U.S.C. 1 et seq.) or the Social Security Act (42 U.S.C. 301 et seq.), except to the extent provided under 42 U.S.C. 404 and 31 U.S.C. 3716(c);
  - (2) claims under the tariff laws of the United States; or
  - (3) any case in which collection of a debt by administrative offset is explicitly provided for or prohibited by statute.
- b. Travel Advances and Employee Training Expenses. Authority to recoup travel advances and training expenses by administrative offset is provided by 5 U.S.C. 5705 and 5 U.S.C. 4108, respectively.
- c. Employee’s Election of Coverage or a Change in Coverage under a Federal Benefit Program and/or Administrative Pay or Allowance Adjustments.
  - (1) An employee’s coverage that requires periodic deductions from pay and that cannot be placed into effect immediately because of normal processing delays is not considered a debt under this Order if—
    - (a) the amount to be recovered was accumulated over 4 pay periods or less or
    - (b) the amount is \$50 or less.
  - (2) The employee’s future pay will be reduced to cover the period between the effective date of selecting or changing the coverage and the first regular withholding.

- (3) The employee may dispute the amount of retroactive collection by notifying the person responsible for resolving the disputed amount. See paragraph 5b(11).

d. Employee's Payment of Health Benefits Premiums for Periods of Non-Pay Status or Insufficient Pay.

- (1) The payroll office must be able to identify through timekeeping/payroll data all employees on leave without pay and employees with insufficient pay to cover premiums.

NOTE: Tracking such employees via Standard Form 50 is not reliable since one is not issued when an employee enters leave without pay status for less than 30 days or when an employee has insufficient pay.

- (2) As soon as the office becomes aware that premium payments cannot be withheld because the employee is on leave without pay or the employee's pay is insufficient to cover the premiums, the payroll office must provide the employee with written notice that adequately explains employees' options in accordance with 5 CFR 890.502.

- (3) The employee must—

- (a) submit in writing his or her decision to continue health benefits coverage

- (b) agree to pay the premium on a current basis or agree upon returning to work or when pay becomes sufficient to cover the premiums, that the payroll office will deduct in addition to the current pay period's premiums an amount equal to premiums for a pay period during the time when the employee was on leave without pay.

- (4) The payroll office will continue using this method to deduct the accrued unpaid premiums from salary until the debt is recovered in full.

- (5) If the debt cannot be recovered in full from salary, the payroll office may recover the debt from whatever other sources normally available for recovery of a debt to the United States [5 CFR 890.502(b)(2)].

7. DUE PROCESS PROCEDURES FOR SALARY OFFSET UNDER 5 U.S.C. 5514.

- a. An independent review will be performed by the appropriate finance office to determine whether an employee owes the Department for debts requiring repayment.

- b. If it is determined that the employee owes payment to DOE, the employee will be provided with prompt written notice of the indebtedness.
- c. A minimum of 30 calendar days from the date the demand letter is sent must be allowed prior to collection.
- d. A letter will be mailed to the employee's most recent address available to DOE.
- e. The letter will be sent certified delivery, return receipt requested, or by a commercial mail service that provides a return receipt, and the receipt will be retained as proof of delivery.
- f. The letter will state—
  - (1) That a debt is owed, including the origin, nature, and amount of the debt.
  - (2) Intention to collect the debt by means of deduction from the employee's current pay account.
  - (3) The amount, frequency, approximate beginning date, and duration of intended deductions.
  - (4) Requirements concerning interest, penalties, and administrative costs.
  - (5) The employee's right to inspect and copy Government records relating to the debt or if the employee or his or her representative cannot personally inspect the records, his or her right to request and receive a copy of records that form the basis for the debt determination.
  - (6) That amounts paid or deducted for the debt and later found not owed to DOE will be promptly refunded including interest or other charges collected from the employee. [NOTE: DOE has no authority to pay additional interest on the amount collected.]
  - (7) That upon petition for a hearing on or before the 15th day following receipt of the notice of indebtedness, the employee has the right to a hearing conducted by an official who is not under the control or supervision of the Secretary.
  - (8) That no later than 10 calendar days prior to the date of the oral hearing, the employee must provide to the CFO or for field employees, the field CFO or equivalent, information as outlined in paragraph 9f.
  - (9) That an employee has the right to be accompanied, represented, and advised by a representative of his or her choice at any stage of the proceedings.

- (10) That the timely filing of a petition for hearing will stay the commencement of collection proceedings, but failure to meet deadline dates could result in salary offset as defined in paragraph 10.
- (11) That, unless the hearing official grants the employee's request for a delay in the proceedings, a final decision on a requested hearing will be issued at the earliest practical date but no later than 60 days after the petition requesting the hearing was filed.
- (12) That the employee may establish a schedule for voluntary repayment of the debt or enter into a written agreement to establish a schedule for voluntary repayment in lieu of the offset.

NOTE: The agreed upon schedule must be submitted in writing, signed by both the employee and the designated DOE representative, and documented in DOE files [5 CFR 550.1104(d)(6)].

- (13) That any knowingly false or frivolous claim, statement, representation, or evidence may subject the employee to the following.
  - (a) Disciplinary procedures appropriate under title 5 U.S.C., chapter 75 and 5 CFR 752.
  - (b) Penalties under the False Claims Act, 31 U.S.C. 3729-3731.
  - (c) Criminal penalties under 18 U.S.C. 286, 1001, and 1002.
  - (d) Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801-09, 31 U.S.C. 3811-12, and 10 CFR 1013.

- g. That payment made under protest for all or any portion of the debt will not be considered a waiver of rights to inspect and copy Government records related to the debt determination and the right to a hearing.

8. EXCEPTION TO EMPLOYEE ENTITLEMENT TO NOTICE, HEARING, WRITTEN RESPONSES, AND FINAL DECISION. The requirements in paragraph 7 above do not apply to the following.

- a. Any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four or fewer pay periods;
- b. A routine intra-agency pay adjustment made to correct an overpayment resulting from clerical or administrative error or delay in processing pay documents but only if the overpayment occurred within the four pay periods preceding the adjustment and if at the time of the adjustment (or as soon thereafter as practical),

the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting the adjustment; or

- c. Any adjustment to collect a debt of \$50 or less if at the time of the adjustment (or as soon thereafter as practical), the individual is provided written notice of the nature and the amount of the adjustment and a point of contact for contesting such adjustment.

9. HEARING PROCEDURES UNDER 5 U.S.C. 5514.

a. Type of Hearing.

- (1) The CFO or for field employees, the field CFO or equivalent will make arrangements to provide the debtor with either an oral hearing or a review based on written submissions (also known as a paper hearing). See 31 CFR 901.3(e).
- (2) A hearing will be provided upon request when the debt will be involuntarily offset against the debtor's current pay account and DOE is the creditor agency.
- (3) The type of hearing will be one of the following.
  - (a) a review of the written records submitted, if the determination of indebtedness does not involve issues of credibility or veracity; or
  - (b) an oral hearing, if issues of credibility or veracity are involved.
- (4) An employee may waive his or her entitlement to an oral hearing and request a review of the case by the hearing official on the basis of written submission only. The debtor will then be accorded a paper hearing determination based on review of the written record.

b. Entitlement to a Hearing.

- (1) Upon request and under the circumstances set forth in paragraph 9a, an opportunity for a hearing will be provided to an employee to determine the existence or amount of the debt and/or a repayment schedule (if one has not been established by written agreement between the employee and the Department).
- (2) When a debt has been reduced to a judgment against the employee by a Federal court, the hearing will be limited to the nature of the repayment schedule, provided it was not established by written agreement between the employee and the Department or by a court order.



c. Petition for a Hearing.

- (1) An employee's written petition for a hearing must be submitted on or before the 15th day following receipt of the notice of indebtedness as described in paragraph 7g. Headquarters employees must address petitions to the CFO or a designee. Employees at field organizations must address petitions to the field CFO or equivalent. In the written petition, the employee must state why the Department's determination of either the existence or amount of the debt is believed to be in error.
- (2) The written petition must be signed by the employee and will describe as specifically and briefly as possible the facts, evidence, and testimony of prospective witnesses the employee believes can support his or her position. If an employee elects to waive an oral hearing, he or she will state specifically that the right to an oral hearing is waived and a hearing on the basis of written submission is elected.
- (3) Within 7 calendar days after timely receipt of a petition for hearing, the CFO or for field employees, the field CFO or equivalent, will forward to the employee and to the hearing official copies of the evidence and records that form the basis for the determination of indebtedness.

d. Petition for a Hearing Made After Time Expires. A petition for a hearing will be accepted after expiration of the 15-day time period, provided the employee shows, to the satisfaction of the CFO or field CFO or equivalent that the delay was caused by circumstances beyond his or her control.

e. Delay of Salary Offset. If an employee petition for a hearing is granted, action to begin recovery of the debt through salary deduction will be deferred until after a decision is rendered by the hearing official. However, DOE will continue to accrue interest, penalties, and administrative costs during the period collection activity is suspended. Upon completion of DOE review, interest, penalties, and administrative cost related to the portion of the debt found to be without merit will be waived. See paragraph 9n.

f. Pre-hearing Submissions for Oral Hearings.

- (1) Not later than 10 calendar days prior to the date of the oral hearing, the employee will file the following information with the CFO or for field employees the field CFO or equivalent and the hearing official.
  - (a) If the employee contests the Department's determination of the

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